

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Tuesday, September 18, 2012
10 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 7, 2012

RE: Closed Session of the Board to be held on September 18, 2012

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. ALIEM CHAO, 10-R2D3-1473 AND 1474
2. CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC., 11-R1D1-0471
3. DAVEY TREE SERVICE, 08-R1D2-2706 THROUGH 2708
4. EMERALD METAL PRODUCTS, INC., 11-R3D1-1812
5. CHRISTOPHER P. RUIZ, A PROFESSIONAL LAW CORPORATION,
11-R3D1-3179
6. OTIS ELEVATOR COMPANY, 10-R3D2-3832 AND 3833
7. THE PRINTER WORKS, 10-R1D4-3844 AND 3845

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. AA BUILDERS & COMPANY, 11-R1D1-2114 THROUGH 2121
2. ALL AMERICAN WASH CO., 11-R6D2-1744 THROUGH 1752
3. ALLIED ENVIRONMENTAL INC., 11-R2D1-3214
4. ALPHA CONSTRUCTION CO., INC., 11-R4D1-3093
5. ANHEUSER-BUSCH, LLC., 12-R6D4-0474 THROUGH 0477
6. SUMANA ANUN, DDS, 12-R3D6-0574
7. ARMOUR STEEL COMPANY, INC., 11-R2D1-0410
8. B2B STAFFING SERVICES, INC., 12-R3D6-0217 THROUGH 0221
9. BODEGA BAY PUD – WASTEWATER TREATMENT PLANT, 11-R6D3-2522 THROUGH 2524
10. NORM BOOK DBA EARL'S TRANSMISSIONS AUTO REPAIR, 12-R6D7-1407 AND 1408
11. BROTMAN MEDICAL CENTER, 12-R4D1-1457
12. CALIFORNIA DAIRIES INC., 09-R2D5-0404 THROUGH 0406
13. CARTER'S TRUCKING, INC., 11-R1D2-3078 AND 3079
14. CHAMP CONSTRUCTION, INC., 12-R6D7-1520
15. CHRISTIANSEN AMUSEMENTS CORP., 12-R3D6-0331
16. CIRCLE M CONTRACTORS, INC., 11-R3D2-2174 AND 2175
17. CLIPPINGER MOTORS, INC., 12-R3D6-0754
18. CONSTRUCTION EQUIPMENT COMPANY AKA LT FARMS, 11-R3D2-2278
19. COSTCO STORE #771, 11-R2D1-3102

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20. CVUHSD HAWTHORNE HIGH, 11-R4D1-3233 AND 3234
21. DIMONT & ASSOCIATES, 12-R3D2-1630
22. ERIKA RECORDS INC., 12-R3D1-0953 THROUGH 0956
23. ERTEC ENVIRONMENTAL SYSTEMS, LLC, 11-R2D1-3026 THROUGH 3029
24. EZ LUBE, 12-R3D6-0580
25. FINELINE WOODWORKING INC., 11-R3D1-3223 AND 3224
26. FREMONTIA HORTICULTURAL, 11-R6D2-2804
27. FRESH AND EASY NEIGHBORHOOD MARKET, INC., 11-R6D2-2473
THROUGH 2474
28. GARCIA JUAREZ CONST. INC., DBA ONSITE KRUSHING CO., 12-R3D3-0783
AND 0784
29. G & K MANAGEMENT CO., INC., 11-R4D1-3305
30. GRANITE CONSRUCTION COMPANY, 11-R5D1-1170
31. ROBERT GRUEN, 11-R3D2-2323 AND 2324
32. IBITTA ENTERPRISES, INC., DBA NATURAL AND HEALTHY PRODUCTS,
11-R4D2-1579 AND 2048
33. IMPERIAL IRRIGATION DISTRICT, 12-R3D2-1863 AND 1864
34. JC FARM SERVICES, INC., 12-R2D1-0004
35. JLS INC., 11-R2D1-3136
36. J.R. CONSTRUCTION, INC., 11-R3D2-1509 AND 1510
37. KEENEY & SON FARMS, INC., 11-R2D1-0496
38. KING PRECISION GLASS, INC., 11-R3D6-3298 THROUGH 3302
39. GUSTAV KOVEN, 11-R4D1-3094
40. LARGO CONCRETE, INC., 12-R1D2-2145
41. MIRANDA LEUNG DBA CANTON RESTAURANT, 12-R6D7-1619

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- 42. LYONS MAGNUS, INC., 11-R2D5-1195
- 43. MAG INSTRUMENT, INC., 12-R3D6-0575 AND 0576
- 44. MARCOR REMEDIATION INC., DBA MARCOR ENVIRONMENTAL,
11-R2D2-2988
- 45. DR. MARC MASKOWITZ, M.D. DBA PAIN CARE MEDICAL PRACTICE,
11-R2D1-0347
- 46. MATHESON TRI-GAS, 11-R1D4-0402
- 47. MILITARY AIRCRAFT PARTS, 11-R2D1-2704
- 48. MONTERO'S RECYCLING, 11-R2D1-2819
- 49. AL & GAYLE MONTNA ET AL DBA MONTNA FARMS DRYER,
11-R2D1-2351 THROUGH 2354
- 50. MOUNTAIN VIEW COLD STORAGE LLC., 12-R2D5-0482
- 51. MTR CONSTRUCTION, 12-R3D1-1236 & 12-R3D1-0869
- 52. NCM CONTRACTING GROUP GP, INC., 11-R2D2-2987
- 53. NCM CONTRACTING GROUP GP, INC., 11-R2D2-2990 TO 2991
- 54. NELSON PROPERTIES, 11-R2D1-3171
- 55. NEWLAND ENTITIES, INC., 11-R2D1-3213
- 56. N M N CONSTRUCTION INC., 12-R1D2-2178
- 57. NUMBER NINE, 11-R3D5-2854 THROUGH 2856
- 58. NUNES AG, INC. 11-R6D7-1627 AND 1628
- 59. O'DONOGHUE CONSTRUCTION, INC., 11-R1D1-0991 THROUGH 1994
- 60. PACIFIC GAS AND ELECTRIC COMPANY, 11-R2D2-0875
- 61. PARAMOUNT UNIFIED SCHOOL DISTRICT, 12-R3D6-0716
- 62. PARK AVENUE CUSTOMS, 10-R2D1-3394 AND 3395

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63. PINNACLE COMPANIES, INC., 12-R3D6-0332
64. PN AUTOMOTIVE, LLC DBA HUNTINGTON BEACH MAZDA, 11-R3D1-3067
65. REDLANDS COMMUNITY HOSPITAL, 12-R3D3-1867
66. RED LION HOTELS CORPORATION, 11-R2D1-3104
67. R.L. HOLDERBEIN CONSTRUCTION, INC., 11-R6D1-2281 THROUGH 2283
68. ROCKET SCIENCE CALIFORNIA CORPORATION, 12-R6D7-1374
69. ROM INVESTMENTS, INC., 12-R4D1-0020
70. SAFEWAY, INC., 10-R1D3-2932 AND 2933
71. SEWERAGE COMMISSION – OROVILLE REGION (SC-OR), 12-R6D3-1551
72. SNAK-KING CORP., 12-R3D6-0615
73. STANDARD PACIFIC CORP. DBA STANDARD PACIFIC HOMES,
11-R3D2-2095 THROUGH 2097
74. STERLING M ENTERPRISE DBA LEE'S DELI, 11-R1D1-0726
75. SULLY-MILLER CONTRACTING COMPANY, 12-R3D3-0785 AND 0786
76. SUNLAND BUILDING SERVICES AND WINDOW CLEANING, 11-R4D1-3230
THROUGH 3232
77. SUN WEST FRUIT CO., INC., 10-R2D5-2624 AND 2625
78. TERRA FORM, INC., 12-R4D2-0334
79. THE CARPET COMPANY, 12-R1D5-0598
80. THE DOT PRINTER INC., 12-R3D1-0570
81. THERMALAIR INC., 11-R3D5-2743
82. TOM & PERRY CHARTER DBA T & P FARMS, 08-R2D3-4349 THROUGH 4351
83. TRICO CONVERTING, 11-R3D1-1570 AND 1571
84. TRIMM'S SCAFFODING, INC., 11-R6D7-2045

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85. JOE EDDIE TRUJILLO, DBA JET CONCRETE, 12-R3D6-0577
86. UNITED PARCEL SERVICE, 11-R1D3-2191 AND 2192
87. UNIVERSAL CUSTOM DISPLAY, 10-R2D1-4062 THROUGH 4064
88. USS PSCO INDUSTRIES, 11-R6D3-0240 AND 0241
89. USS-POSCO INDUSTRIES, LLC., 11-R2D2-0487
90. WALGREEN COMPANY, 11-R1D1-3201
91. WESTMINSTER SCHOOL DISTRICT, 12-R3D1-0483
92. WIGHTMAN ENTERPRISES INC. DBA CERTIFIED STAFF LINK,
11-R2D1-1335 THROUGH 1337
93. WINCO FOODS, 12-R2D4-1075
94. WWL VEHICLE SERVICES AMERICAS, INC., 11-R3D5-2940
95. CUN PING XIAO DBA FUJI BUFFET, 12-R6D7-1586

ORDERS DISMISSING APPEALS:

1. Z FOODS, INC., 10-R2D5-3355 THROUGH 3358

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. BLUE DIAMOND GROWERS, 10-R2D1-1280 AND 1281
2. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
3. McDINIS RESTAURANT CORPORATION, 12-R6D5-9092
4. SIERRA FOREST PRODUCTS, 09-R2D5-3979

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DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. MOUNTAIN CASCADE, INC., 12-R2D3-9096
2. GOD BLESS TIRES, 11-R6D7-0972 & 0973
3. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3793 & 3794
4. NCA ENTERTAINMENT, INC. DBA GREG'S RIDES, 11-R3D2-2740
5. NCA ENTERTAINMENT, INC. DBA GREG'S RIDES, 11-R3D2-2774

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
6. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
7. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
8. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
9. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. C & L BLUE, INC., 11-R4D1-2942
12. C & L BLUE, INC., 11-R4D1-2943 THROUGH 2945
13. CENTRAL VALLEY ENGINEERING & ASPHALT, INC. 08-R2D1 5001 AND 5002

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14. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
15. COMMERCIAL METAL FORMING, 09-R3D1-1592
16. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
17. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
18. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
19. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
20. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
21. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
22. ECO BAY SERVICES, INC., 10-R1D1-1233 THROUGH 1236
23. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
24. EZ MIX, INC., 08-R4D3-1898
25. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
26. HOME DEPOT, 10-R3D6-3284
27. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
28. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
29. IRWIN INDUSTRIES, 08-R6D4-1454
30. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
31. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
32. LION RAISINS, INC., 08-R2D5-2253 AND 2254
33. MARINE TERMINALS, 08-R6D2-1920
34. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
35. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
36. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667

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37. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
38. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
39. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
40. POUK & STEINLE, INC., 09-R3D3-0491
41. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
42. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
43. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
44. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
45. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
46. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
47. SMUD, 08-R2D1-4887 THROUGH 4889
48. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
49. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
50. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
51. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
52. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459 AND 0460
53. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 10-R5D1-3029

LEGISLATION:

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending

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litigation.)

SUPERIOR COURT:

1. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
(08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
17. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
18. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)

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19. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
20. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
21. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)

COURT OF APPEAL:

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL: *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.